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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,900	02/01/2005	Taichi Murase	L9289.04197	6653

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EXAMINER

MOE, AUNG SOE

ART UNIT PAPER NUMBER

2618

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,900	<b>Applicant(s)</b> MURASE, TAICHI	
	<b>Examiner</b> Aung S. Moe	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>see attached</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 5 is rejected under 35 U.S.C. 101 because the descriptions or expression of the programs, such as recited in claim 5 “a program for causing a computer to execute: . . .”, are not physical “things”. They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer program does not define any structural and functional interrelationships between the computer program and other claimed elements of the computer that permit the computer program’s functionality to be realized.

In view of the above, it is noted that the claimed invention is directed to non-statutory subject matter. **Data structures not claimed as embodied in computer-readable media** are descriptive material *per se* and not statutory because they are not capable of causing functional change in the computer.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is unclear how “each finger” recited in lines 5, 9, 10, 14 and 16 related to “each finger” recited in line 3? If they are the same “finger”, please change “each finger” recited in lines 5, 9, 10, 14 and 16 to - - said each finger - -.

Regarding claim 1, it is unclear how “RAKE combining” recited in line 17 related to “RAKE combining” recited in line 8? If they are the same “RAKE combining”, please change “RAKE combining” recited in line 17 to - - said RAKE combining - -.

Regarding claim 2, it is unclear how “each finger” recited in lines 8 and 10 of claim 2 related to “each finger” recited in line 3 of claim 1? If they are the same “finger”, please change “each finger” recited in lines 8 and 10 of claim 2 to - - said each finger - -.

Regarding claim 2, it is unclear how “RAKE combining” recited in line 11 of claim 2 related to “RAKE combining” recited in line 8 of claim 1? If they are the same “RAKE combining”, please change “RAKE combining” recited in line 11 of claim 2 to - - said RAKE combining - -.

Regarding claim 3, it is unclear how “each finger” recited in lines 8, 11 and 12 of claim 3 related to “each finger” recited in line 3 of claim 1? If they are the same “finger”, please change “each finger” recited in lines 8, 11 and 12 of claim 3 to - - said each finger - -.

Regarding claim 4, it is unclear how “each finger” recited in lines 3, 6, 7, 10 and 12 related to “each finger” recited in line 2? If they are the same “finger”, please change “each finger” recited in lines 3, 6, 7, 10 and 12 to - - said each finger - -.

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Regarding claim 4, it is unclear how "RAKE combining" recited in line 13 related to "RAKE combining" recited in line 5? If they are the same "RAKE combining", please change "RAKE combining" recited in line 13 to - - said RAKE combining - -.

Regarding claim 5, it is unclear how "each finger" recited in lines 5, 7, 8, 12 and 14 related to "each finger" recited in line 2? If they are the same "finger", please change "each finger" recited in lines 5, 7, 8, 12 and 14 to - - said each finger - -.

Regarding claim 5, it is unclear how "RAKE combining" recited in line 15 related to "RAKE combining" recited in line 6? If they are the same "RAKE combining", please change "RAKE combining" recited in line 15 to - - said RAKE combining - -.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 20050143117A1 US 20050254563A1 US 20030043775A1

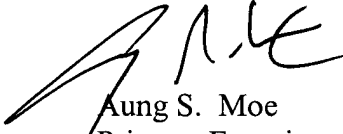
US 20040248581A1 US 20060171449A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung S. Moe whose telephone number is 571-272-7314. The examiner can normally be reached on Flex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Aung S. Moe  
Primary Examiner  
Art Unit 2618

A. Moe  
October 2, 2006